

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF WATER

APPLICATION FOR PERMIT TO CONSTRUCT ACROSS OR ALONG A STREAM  
AND / OR WATER QUALITY CERTIFICATION

Chapter 151 of the Kentucky Revised Statutes requires approval from the Division of Water prior to any construction or other activity in or along a stream that could in any way obstruct flood flows or adversely impact water quality. If the project involves work in a stream, such as bank stabilization, dredging or relocation, you will also need to obtain a 401 Water Quality Certification (WQC) from the Division of Water. This completed form will be forwarded to the Water Quality Branch for WQC processing. The project may not start until all necessary approvals are received from the KDOW. For questions concerning the WQC process, contact John Dovak at 502/564-3410.

If the project will disturb more than 1 acre of soil, you will also need to complete the attached Notice of Intent for Storm Water Discharges, and return both forms to the Floodplain management Section of the KDOW. This general permit will require you to create an implement an erosion control plan for the project.

1. OWNER: Chesapeake Appalachia, L.L.C.  
Give name of person(s), company, governmental unit, or other owner of proposed project.  
MAILING ADDRESS: 900 Pennsylvania Avenue, Charleston, WV 25302  
TELEPHONE #: (304) 353-5120 EMAIL: eddy.grey@chk.com
2. AGENT: \_\_\_\_\_ 19458A  
Give name of person(s) submitting application, if other than owner.  
ADDRESS: \_\_\_\_\_  
TELEPHONE #: \_\_\_\_\_ EMAIL: \_\_\_\_\_
3. ENGINEER: \_\_\_\_\_ P.E. NUMBER: \_\_\_\_\_  
Contact Division of Water if waiver can be granted.  
TELEPHONE #: \_\_\_\_\_ EMAIL: \_\_\_\_\_
4. DESCRIPTION OF CONSTRUCTION: Remove existing 30' modular bridge crossing Smith Creek and construct  
Describe the type and purpose of construction and describe stream impact  
6' diameter x 100' culvert crossing. The culvert will be constructed in a manner to allow for fish passage.  
Refer to attached Plan and Cross Section Drawings for proposed construction plan. Erosion and sedimentation control BMPs  
will be implemented to minimize sedimentation to the stream during construction. Upon completion of construction  
activities, disturbed areas will be seeded and mulched, with erosion and sedimentation controls left in place until revegetation  
occurs.
5. COUNTY: Letcher NEAREST COMMUNITY: Eolia
6. USGS QUAD NAME: Whitesburg LATITUDE/LONGITUDE: Latitude N37.03339° and Longitude W82.75306°
7. STREAM NAME: Smith Creek WATERSHED SIZE (in acres): 196.5 acres
8. LINEAR FEET OF STREAM IMPACTED: 100 ft
9. DIRECTIONS TO SITE: Going ENE on US 119 at Oven Fork, turn right (SE) onto SR 806 keeping left (SE) onto Smith  
Creek then straight onto Cresent Hts to project access location. Distance from Oven Fork at US 119 to project location is  
approximately 4.1 miles.
10. IS ANY PORTION OF THE REQUESTED PROJECT NOW COMPLETE? ☐ Yes ☒ No If yes, identify the  
completed portion on the drawings you submit and indicate the date activity was completed. Note: Construction of a  
temporary modular bridge that spanned the creek and did not impact OHWM of stream was installed in 2008. KYDOW was  
contacted prior to constructing the bridge and it was determined that no permits were required. The proposed project is to  
replace the temporary bridge with a permanent culvert. DATE: Temporary Bridge Construction; February – March 2008

11. ESTIMATED BEGIN CONSTRUCTION DATE: June 1, 2009
12. ESTIMATED END CONSTRUCTION DATE: July 31, 2009
13. HAS A PERMIT BEEN RECEIVED FROM THE US ARMY, CORPS of ENGINEERS? Yes ☒ No ☐ If yes, attach a copy of that permit. Note: Attached is a copy of US Army Corps of Engineers Permit Application that has been submitted to the Corps.
14. THE APPLICANT **MUST** ADDRESS PUBLIC NOTICE:
- (a) PUBLIC NOTICE HAS BEEN GIVEN FOR THIS PROPOSAL BY THE FOLLOWING MEANS:
- \_\_\_\_\_ Public notice in newspaper having greatest circulation in area (provide newspaper clipping or affidavit)
- \_\_\_\_\_ Adjacent property owner(s) affidavits (Contact Division of Water for requirements.)
- (b) ☒ I REQUEST WAIVER OF PUBLIC NOTICE BECAUSE:
- Project not in 100 year floodplain area, located in upper section of stream headwaters with minimal intermittent flow, and area of watershed less than 200 acres.
- Contact Division of Water for requirements.
15. I HAVE CONTACTED THE FOLLOWING CITY OR COUNTY OFFICIALS CONCERNING THIS PROJECT:
- Jim Revis, Floodplain Coordinator, Letcher County, KY
- Give name and title of person(s) contacted and provide copy of any approval city or county may have issued.
16. LIST OF ATTACHMENTS: 7.5 min. USGS Topographic Map, USFWS Wetlands Site Map, Plan View/Cross Section Drawings (1) Sheet, Letter to USFWS from Biological Systems Consultants, Inc. – Black Dace Study.
- List plans, profiles, or other drawings and data submitted. Attach a copy of a 7.5 minute USGS topographic map clearly showing the project location.
17. I, James E. Grey, Director – Regulatory Compliance, Chesapeake Appalachia, L.L.C. (owner) CERTIFY THAT THE OWNER OWNS OR HAS EASEMENT RIGHTS ON ALL PROPERTY WHICH THIS PROJECT WILL BE LOCATED OR ON WHICH RELATED CONSTRUCTION WILL OCCUR (for dams, this includes the area that would be impounded during the design flood).
18. REMARKS: \_\_\_\_\_

I hereby request approval for construction across or along a stream as described in this application and any accompanying documents. To the best of my knowledge, all the information provided is true and correct.

SIGNATURE: \_\_\_\_\_

Owner or Agent sign here. (If signed by Agent, a Power of Attorney should be attached.)

DATE: 4-27-09

SIGNATURE OF LOCAL FLOODPLAIN COORDINATOR: \_\_\_\_\_

Permit application will be returned to applicant if not properly endorsed by the local floodplain coordinator.

DATE: 5-14-09

SUBMIT APPLICATION AND ATTACHMENTS TO:

Floodplain Management Section  
Division of Water  
14 Reilly Road  
Frankfort, KY 40601

## Section 404 Nationwide Permit Review

**Project Title:** Well 825699 Access Road Stream Crossing      **Month:** April      **Year:** 2009  
**District:** Southwest      **Facility Number:** 825699      **Well** ☒ **Pipeline** ☐  
**Project Manager:** Robert Marsh      **Project Start Date:** 06/01/2009  
**Reviewed By:** T Hager      **Review Date:** 04/27/2009      **Pictures** ☒  
**Stream Name:** Smith Creek      **Stream Crossing Number:** 1  
**State:** KY      **County:** Letcher      **Quadrangle:** Whitesburg  
**Latitude:** 37.03339      **Longitude:** -82.75306

### Nationwide Permit Application Review

**Special Waters** ☒      **Special Waters (1):** Outstanding State Resource Water

**Special Waters (2):**

**Special Waters (3):**

**Wetland** ☐      **Threatened and Endangered Species** ☒      **Historic/Archaeological Sensitive Area** ☐

**Floodplain Area** ☐

**1st Section 404 Permit:** 0      **2nd Section 404 Permit:** 0      **3rd Section 404 Permit:** 0

**Project Greater than 200 Linear Feet** ☐

**Individual Section 401 Water Quality Certification** ☒

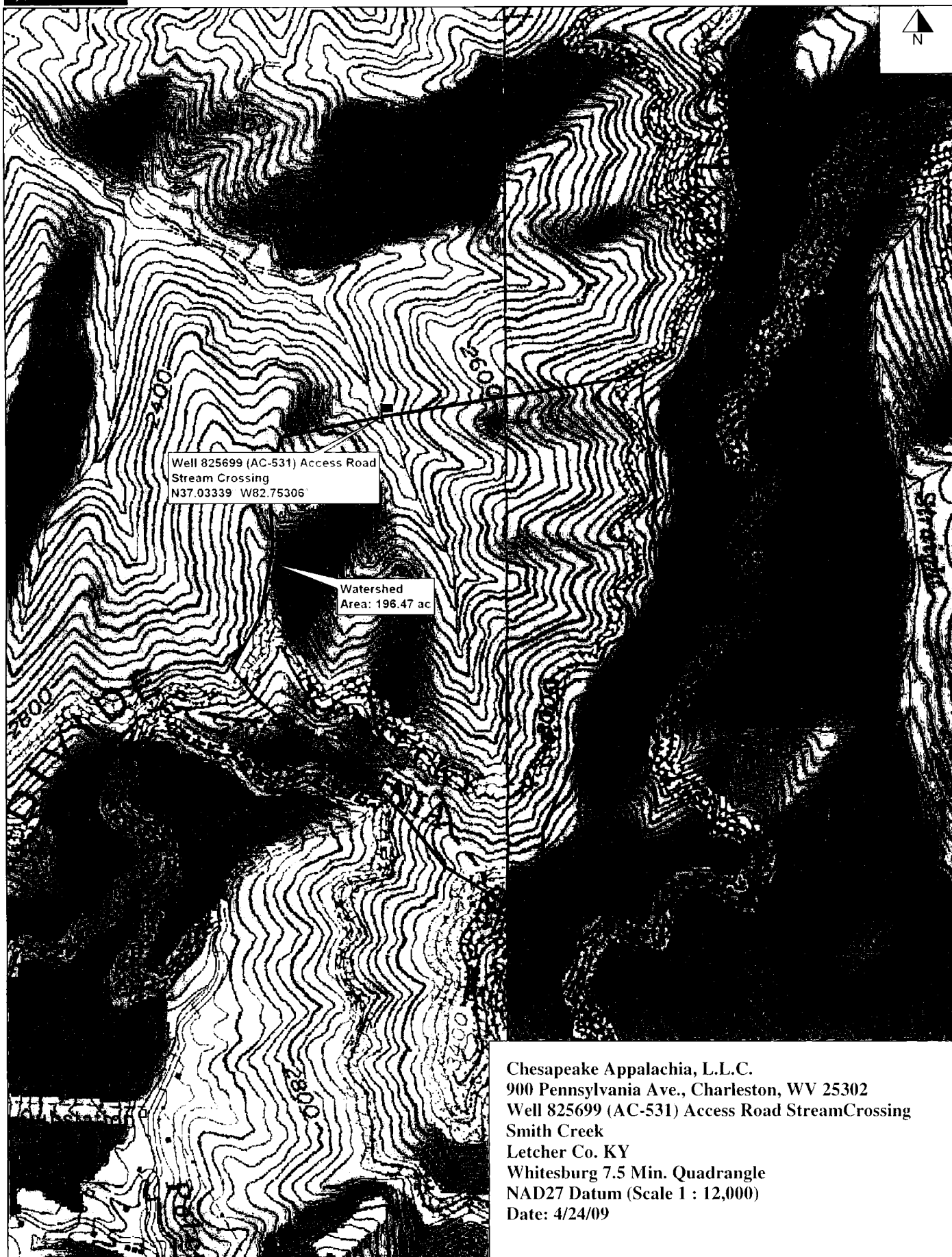
**Section 404 PCN - General Condition 13 Required** ☒      **USACOE - Project Completion Notification Required** ☒

**KY Water Notification Required per 401 KAR 4:050** ☐      **KY Notification Exemption:**

**Other Permits Required:** Letcher County Floodplain and KYDOW Construction Along Stream Permit.

**Permits Issued** ☐

**Comments:** Replace existing temporary modular bridge with permanent culvert crossing to access natural gas well.

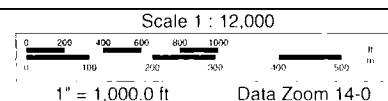


Chesapeake Appalachia, L.L.C.  
 900 Pennsylvania Ave., Charleston, WV 25302  
 Well 825699 (AC-531) Access Road Stream Crossing  
 Smith Creek  
 Letcher Co. KY  
 Whitesburg 7.5 Min. Quadrangle  
 NAD27 Datum (Scale 1 : 12,000)  
 Date: 4/24/09

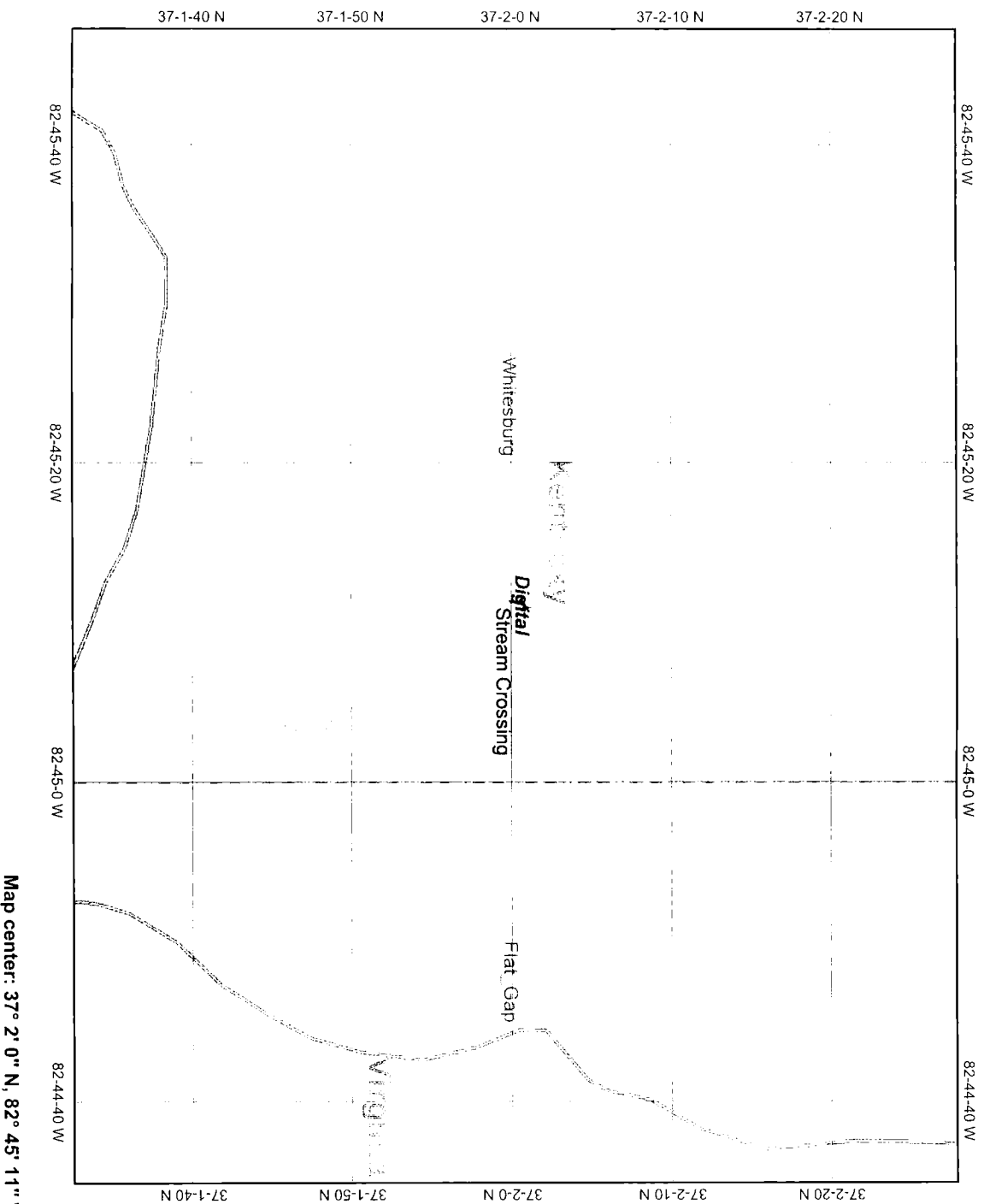
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www.delorme.com



# CHK Well 825699 Stream Crossing Project



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Notes: Proposed permanent culvert crossing to be located across upper branch of Smith Creek, 4/24/09

Map center: 37° 2' 0" N, 82° 45' 11" W

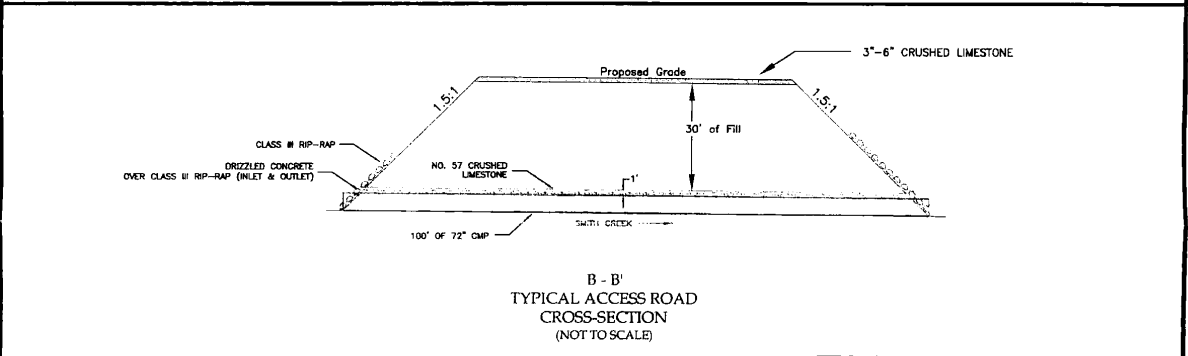
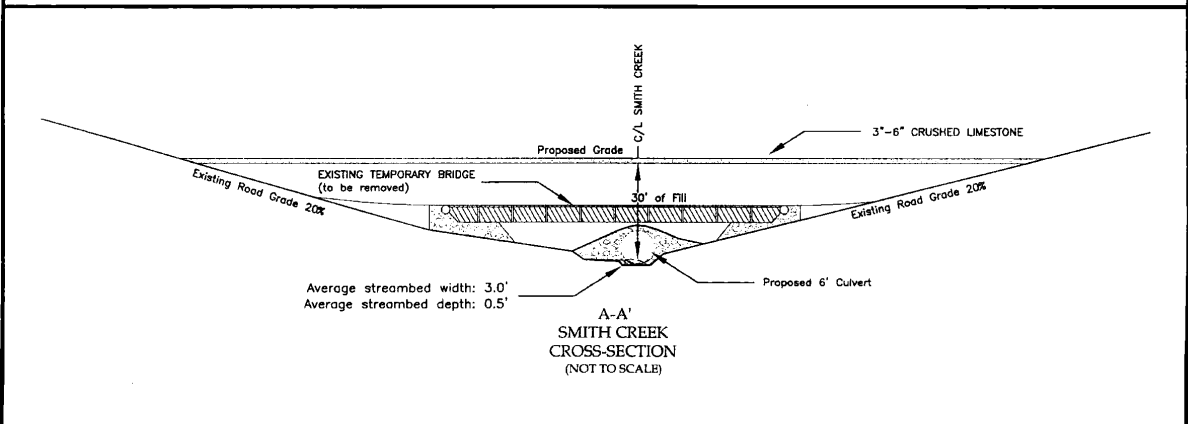
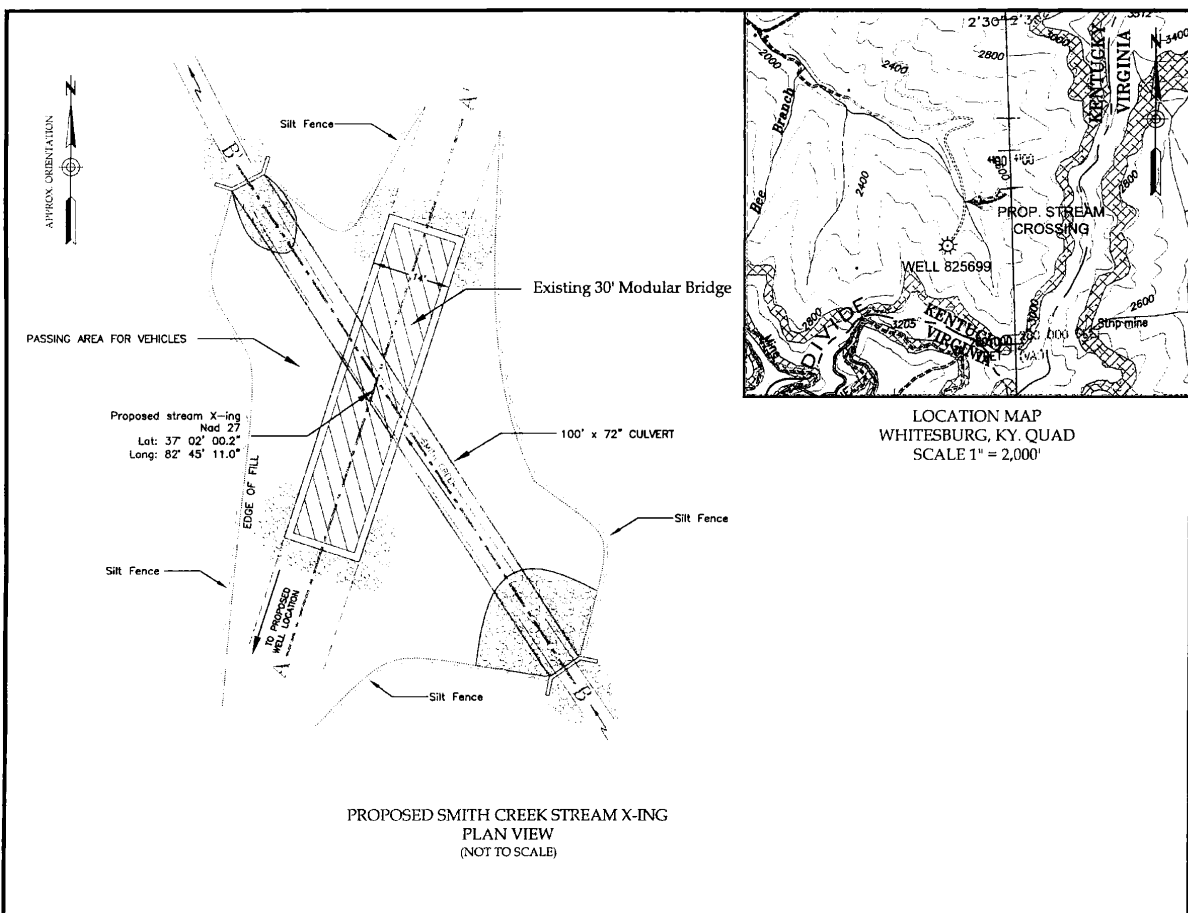


### Legend

Ohio\_wet\_scan

- 0
- 1
- Out of range
- Interstate
- Major Roads
- Other Road
- Interstate
- State highway
- US highway
- Roads
- Cities
- USGS Quad Index 24K
- Lower 48 Wetland Polygons
- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine
- Lower 48 Available Wetland Data
- Non-Digital
- Digital
- No Data
- Scan
- NHD Streams
- Countries 100K
- States 100K
- South America
- North America

Scale: 1:12,000



# **BIOLOGICAL SYSTEMS CONSULTANTS, INC.**

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P.O. Box 54954  
Lexington, KY 40555-4954  
Phone/Fax: (859) 263-4142  
E-Mail: bats@gte.net

04/06/09

Mr. Mike Floyd, USFWS  
C/O Mr. Gregory Zimmerman  
EnviroScience, Inc.  
6751 A-1 Taylor Rd.  
Blacklick, OH 43004

RE : Smith Creek OSRW / Gas Road Crossing / Chesapeake Appalachia, L.L.C. /  
Well # 825699 / BSC # 2916

Dear Mike ;

With reference to the above project, attached is a location map of the stream crossing and photographs of the upstream and downstream characteristics related to the disturbance. Smith Creek, according to the Kentucky Division of Water, is a designated OSRW for the federally threatened blackside dace (*Phoxinus cumberlandensis*) from the 3.1 mile marker to the headwaters. Therefore, an on-site visit was made to assess the location of the crossing and its impact, or potential impact, to the Blackside dace or its habitat. According to O'Bara, 1985, " the Blackside dace is primarily located in pools which have extensive cover, primarily in the form of undercut, rooted banks, in cool upland tributaries which have a near equal pool-riffle ratio." Past studies performed by Biological Systems Consultants have somewhat verified this description but have also found that preferred habitat may include a low-moderate gradient, sinuous stream channel with varying pool depths(2-4 feet) with undercut banks and root wads, a 3-8 foot width and a near equal riffle/pool ratio with shallow riffles and side pools.

A site visit was made to the Smith Creek road crossing on March 26, 2009. The attached photographs were taken, electro-shocking was performed and the habitat assessed with respect to the above descriptions. The following were noted ;

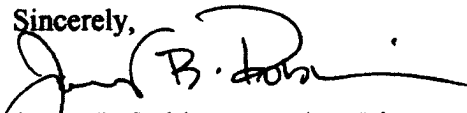
- (1) the stream crossing was in an upland setting
- (2) no habitat was noted in the immediate area that would harbor the species
- (3) electro-shocking was performed upstream and downstream(100 meter segment) of the crossing(42 seconds) and no fish were encountered.

Therefore, it was concluded that no blackside dace habitat existed in the immediate area of the crossing. Approximately 150 feet below the crossing a bedrock falls was encountered. Sediment, however, was noted in the stream and straw bales that had been placed for temporary erosion control had "blown-out".

As shown in the photographs, the road ingress and egress, and outslope areas require stabilization to prevent further contributions into the stream system and transport of sediment downstream to potential habitat areas. Therefore, the immediate implementation and adherence to "Best Management Practices" as recommended by the regulating agencies should prevent adverse impacts to the species.

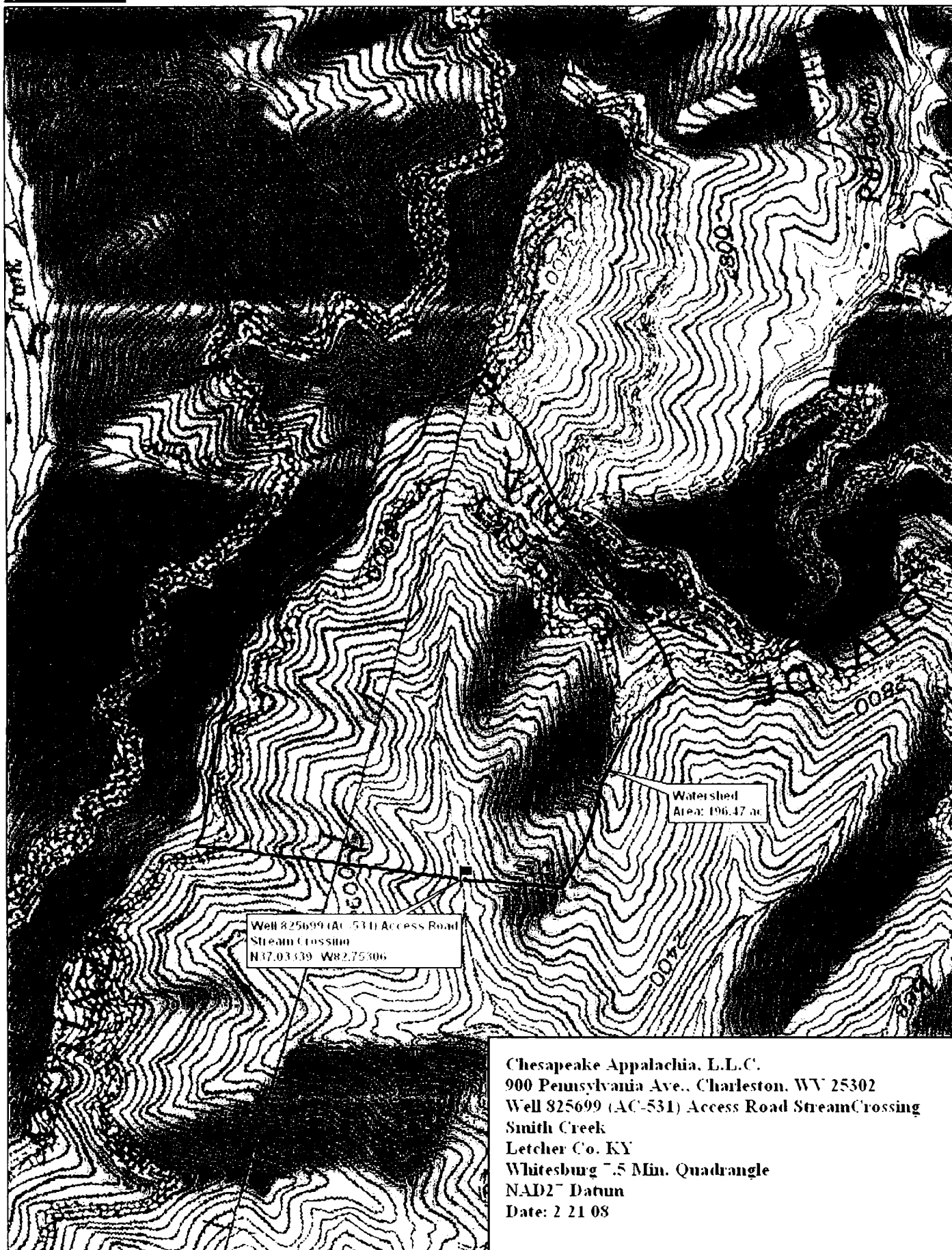
If you have any questions, please feel free to call.

Sincerely,



James B. Robinson, Project Director  
Biological Systems Consultants, Inc.



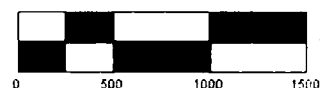


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MN (6 1° W)



Data Zoom 14-0

**Smith Creek Road Crossing Upstream**



**Smith Creek Road Crossing Downstream**



### Downstream Bedrock





April 27, 2009

U.S. Army Corps of Engineers, Louisville District  
Attention: CELRL-OP-F  
P.O. Box 59  
Louisville, KY 40401-0059

RE: Well 825699 Access Road Smith Creek, Letcher County Stream Crossing – Pre-  
Construction Notification: Application for Department of the Army Permit

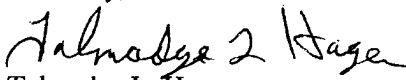
Dear Sir/Madam:

Chesapeake Appalachia, L.L.C. (CHK) respectfully submits the enclosed Application for Department of the Army Permit package for replacement of an existing temporary modular bridge with a permanent culvert to access a CHK natural gas well for operation and maintenance of the well and associated pipeline.

The project is located in the headwaters of a branch of Smith Creek, located in Letcher County, KY. Smith Creek has been designated as an Outstanding State Resource Water and may contain the Federally threatened blackside dace. Chesapeake has had a habitat and electro-shocking survey conducted at the project location, which resulted in the conclusion that no blackside dace habitat existed in the immediate area of the proposed crossing.

Please contact me at (304) 353-5160 or [talmadge.hager@chk.com](mailto:talmadge.hager@chk.com) if there are any questions regarding the permit application or project.

Sincerely,

  
Talmadge L. Hager  
Regulatory Compliance Engineer

Attachment.

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT  
(33 CFR 325)

OMB APPROVAL NO. 0710-0003  
Expires December 31, 2004

The public reporting burden for this collection of information is estimated to average 10 hours per response, although the majority of applications should require 5 hours or less. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies. Submission of requested information is voluntary, however, if information is not provided, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

|                    |                      |                  |                               |
|--------------------|----------------------|------------------|-------------------------------|
| 1. APPLICATION NO. | 2. FIELD OFFICE CODE | 3. DATE RECEIVED | 4. DATE APPLICATION COMPLETED |
|--------------------|----------------------|------------------|-------------------------------|

(ITEMS BELOW TO BE FILLED BY APPLICANT)

|   |  |
|---|--|
| 5. APPLICANT'S NAME<br>Chesapeake Appalachia, L.L.C.                                      | 8. AUTHORIZED AGENT'S NAME AND TITLE ( <i>an agent is not required</i> ) |
| 6. APPLICANT'S ADDRESS<br>900 Pennsylvania Avenue<br>Charleston, WV 25302                 | 9. AGENT'S ADDRESS   |
| 7. APPLICANT'S PHONE NUMBERS WITH AREA CODE<br>a. Residence<br>b. Business (304) 353-5120 | 10. AGENT'S PHONE NUMBERS WITH AREA CODE<br>a. Residence<br>b. Business  |

11. STATEMENT OF AUTHORIZATION

I hereby authorize \_\_\_\_\_ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

APPLICANT'S SIGNATURE

DATE

NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY

|   |  |
|---|--|
| 12. PROJECT NAME OR TITLE ( <i>see instructions</i> )<br>Well 825699 Smith Creek Access Road Crossing |  |
| 13. NAME OF WATERBODY, IF KNOWN ( <i>if applicable</i> )<br>Smith Creek                               | 14. PROJECT STREET ADDRESS ( <i>if applicable</i> )<br>See Attached Topographic Map. |
| 15. LOCATION OF PROJECT<br><br>Letcher COUNTY      Kentucky STATE                                     |  |

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (*see instructions*)

17. DIRECTIONS TO THE SITE

Going ENE on US 119 at Oven Fork, KY, turn right (SE) onto SR 806 keeping left (SE) onto Smith Creek, then straight onto Crescent Hts to project access location. (Approximately 4.1 miles from US119 to project).

18. Nature of Activity (Description of project, include all features)

Remove existing 30' modular bridge crossing Smith Creek and construct 6' diameter x 100' permanent culvert crossing. The culvert will be constructed in a manner to allow for fish passage. Refer to attached Plan and Cross Section Drawings for proposed construction plan. Erosion and sedimentation control BMPs will be implemented to minimize sedimentation to the stream during construction. Upon completion of construction activities, disturbed areas will be seeded and mulched, with erosion and sedimentation controls left in place until revegetation occurs.

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

The purpose of the project is to provide continued access to Chesapeake's existing Well 825699 and pipeline for operational and maintenance needs.

USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

Construction of permanent 6' x 100' culvert.

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards

72" CMP culvert pipe x 100' with 230 cubic yards rock and earthen fill within OHWM of stream.

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Approximately 0.01 acre

23. Is Any Portion of the Work Already Complete? Yes \_\_\_\_\_ No ☒ IF YES, DESCRIBE THE COMPLETED WORK

Note: 30' modular bridge was constructed during February - March 2008 that spanned over creek and outside OHWM of stream.

24. Addresses of Adjoining Property Owners, Lessees, etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

Lessee: Chesapeake Appalachia, L.L.C., 900 Pennsylvania Ave., Charleston, WV 25302

25. List of Other Certifications or Approvals/Denials Received from other Federal, State, or Local Agencies for Work Described in This Application

| AGENCY     | TYPE APPROVAL* | IDENTIFICATION NUMBER | DATE APPLIED | DATE APPROVED | DATE DENIED |
|------------|----------------|-----------------------|--------------|---------------|-------------|
| KYDOW      | Stream Work    |                       | 4/27/09      |               |             |
| Letcher Co | Floodplain     |                       | 4/27/09      |               |             |

\*Would include but is not restricted to zoning, building and flood plain permits

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up any trick scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

**ATTACHMENT**

**PRELIMINARY JURISDICTIONAL DETERMINATION FORM**

**BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD):** 4/24/09

**B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:**

Chesapeake Appalachia, L.L.C.  
Attn: James E. Grey  
900 Pennsylvania Avenue  
Charleston, WV 25302

**C. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Louisville District

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:**

Southeast of Eolia off Smith Creek Road.

**(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)**

**State:** KY      **County/parish/borough:** Letcher      **City:** Eolia  
**Center coordinates of site (lat/long in degree decimal format):** Latitude N37.03339°, Longitude W82.75306°.  
**Universal Transverse Mercator:**  
**Name of nearest waterbody:** Smith Creek

**Identify (estimate) amount of waters in the review area:**

**Non-wetland waters:** 100 linear feet: 5 width (ft) and/or 0.01 acres.  
**Cowardin Class:** riverine system  
**Stream Flow:** intermittent  
**Wetlands:** N/A acres.  
**Cowardin Class:** N/A

**Name of any water bodies on the site that have been identified as**

**Section 10 waters:** None

**Tidal:** N/A

**Non-Tidal:** N/A

**E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

☒ **Office (Desk) Determination.** Date: April 24, 2009

☐ **Field Determination.** Date(s):

**1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or**

her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

This preliminary JD finds that there "*may be*" waters of the United States on the subject project site, and identifies all aquatic features on the site



that could be affected by the proposed activity, based on the following information:

**SUPPORTING DATA.** Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Topographical Map and Plan/Cross Section Drawings.

☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.

☐ Office concurs with data sheets/delineation report.

☐ Office does not concur with data sheets/delineation report.

☐ Data sheets prepared by the Corps:

☐ Corps navigable waters' study:

☐ U.S. Geological Survey Hydrologic Atlas:

☐ USGS NHD data.

☐ USGS 8 and 12 digit HUC maps.

☒ U.S. Geological Survey map(s). Cite scale & quad name: 1 :12,000 Scale, Whitesburg 7.5 Min. Quadrangle.

☐ USDA Natural Resources Conservation Service Soil Survey. Citation:

☒ National wetlands inventory map(s). Cite name: Whitesburg (See Attached Map).

☐ State/Local wetland inventory map(s):

☐ FEMA/FIRM maps:

☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

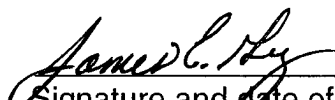
☒ Photographs: ☐ Aerial (Name & Date):  
or ☒ Other (Name & Date): Site Photos (3/26/09).

☐ Previous determination(s). File no. and date of response letter:

☐ Other information (please specify):

**IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.**

\_\_\_\_\_  
Signature and date of  
Regulatory Project Manager  
(REQUIRED)

  
\_\_\_\_\_  
Signature and date of  
person requesting preliminary JD  
(REQUIRED, unless obtaining  
the signature is impracticable)

| <b>Site number</b> | <b>Latitude</b> | <b>Longitude</b> | <b>Cowardin Class</b> | <b>Estimated amount of aquatic resource in review area</b> | <b>Class of aquatic resource</b> |
|--------------------|-----------------|------------------|-----------------------|--|----------------------------------|
| 1                  | N37.03339°      | W82.75306°       |                       | 0.01 acre  | non-section 10 – non-wetland     |



April 27, 2009

Ms. Barbara Scott  
Division of Water  
Water Resources Branch  
Floodplain Management Section  
14 Reilly Road  
Frankfort, Kentucky 40601

RE: Well 825699 Access Road Stream Crossing, Smith Creek, Letcher Co., KY –  
Application for Permit to Construct Across or Along a Stream and/or Water Quality  
Certification

Dear Ms. Scott:

Chesapeake Appalachia, L.L.C. (Chesapeake) respectfully submits the enclosed Application for Permit to Construct Across or Along a Stream and/or Water Quality Certification package to construct a permanent culvert stream crossing for access to an existing operating natural gas well.

The project is located in the headwaters of a branch of Smith Creek, located in Letcher County, KY. Smith Creek has been designated as an Outstanding State Resource Water and may contain the Federally threatened blackside dace. Chesapeake has had a habitat and electro-shocking survey conducted at the project location, which resulted in the conclusion that no blackside dace habitat existed in the immediate area of the proposed crossing.

**A waiver from the requirement for public notice is requested due to the low population density within the watershed drainage area.**

Please contact me at (304) 353-5160 or [talmadge.hager@chk.com](mailto:talmadge.hager@chk.com) if there are any questions regarding the permit application or project.

Sincerely,

A handwritten signature in cursive script that reads "Talmadge L. Hager".

Talmadge L. Hager  
Regulatory Compliance Engineer

Attachment.



April 27, 2009

911 Office  
156 Main Street  
Suite 107  
Whitesburg, KY 41858  
Attn: Jim Revis

RE: Local Floodplain Permit for Chesapeake Project in Letcher Co., KY

Dear Mr. Revis:

Chesapeake Appalachia, L.L.C. respectfully requests the granting of Local Floodplain Permit for constructing a permanent culvert crossing across an upper section of Smith Creek, located in Letcher County, KY. Your signed approval is necessary prior to submittal of the project to KY DOW.

Details of the project are given below.

Remove existing 30' modular bridge crossing Smith Creek and construct 6' diameter x 100' permanent culvert crossing. The culvert will be constructed in a manner to allow for fish passage. Refer to attached Plan and Cross Section Drawings for proposed construction plan. Erosion and sedimentation control BMPs will be implemented to minimize sedimentation to the stream during construction. Upon completion of construction activities, disturbed areas will be seeded and mulched, with erosion and sedimentation controls left in place until revegetation occurs. See attached permit application documents.

**Two copies of the permit application package have been provided to you, please sign and return one permit application package to me for submittal to KY DOW and retain one copy for your records.**

Please contact me at 304.353.5160 Work, 304.382.5234 Cell, or [talmadge.hager@chk.com](mailto:talmadge.hager@chk.com) if you have any questions or need additional information regarding the project.

Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in cursive script that reads "Talmadge L. Hager".

Talmadge L. Hager  
Senior Regulatory Compliance Specialist

Attachments.

**Chesapeake Energy Corporation**

P. O. Box 6070 • Charleston, WV 25362-0070 • (304) 353-5000 • (304) 353-5231 fax